PUBLIC HEALTH

Public Health Reorganization

SB 08-194 (Enacted)

Public Health Reorganization

Solid Waste and Wastewater Regulation

HB 08-1414 (Enacted)

Regulate Oil & Gas Waste Disposal

Pits

SB 08-037 (Enacted) Flexible Enforcement Hazardous

Waste Law

HB 08-1073 (Enacted)

Exempt Wastewater Facility Certified

Operator

HB 08-1099 (Enacted)

Cleanup Environmental Control

Water Solid Waste

Air Quality

HB 08-1230 (Postponed Indefinitely) Mobile Machinery Comply Tier 2

Emissions

SB 08-225 (Lost in House)

No Gaming Devices in Cigar Bars

Disease Control and Treatment

SB 08-044 (Enacted)

Tuberculosis Screening College

Students

HB 08-1199 (Enacted) Update Tuberculosis Control

Statutes

HB 08-1372 (Enacted)

Adult Stem Cell Donation Awareness

SB 08-109 (Postponed Indefinitely)

Patient Information Report

Requirements

Health Facility Licensing

SB 08-182 (Postponed Indefinitely) Hospitals Discontinue Essential

Services

SB 08-153 (Enacted)

License Home Care Agencies by

the CDPHE

HB 08-1038 (Enacted)

Assisted Livina Residence

Regulation Fee

Other

SB 08-026 (Enacted)

Fire Safe Cigarettes Ignition **Propensity Standards**

HB 08-1396 (Enacted) Study Leadville Mine Drainage

Tunnel

During the 2008 session, the General Assembly considered a variety of bills relating to public health. In addition to approving a bill reorganizing the state's public health system, the legislature considered bills relating to solid waste, wastewater, air quality, disease control and treatment, and health care facility licensing.

Public Health Reorganization

Senate Bill 08-194 repeals current statutes pertaining to county and district public health agencies, local boards of health, and regional health departments, and reenacts statutes pertaining to county and district public health agencies, with amendments. The bill creates new requirements

for the state Department of Public Health and Environment, State Board of Health, and county and district health boards and agencies, as follows:

- on or before December 31, 2009, and on or before December 31 every five years thereafter, requires the department to develop a comprehensive, statewide public health improvement plan;
- after the approval of each statewide plan, requires each county and district public health agency to prepare a local public health plan;
- subject to available appropriations, requires the department to provide technical assistance to county and district public health agencies in the development of the local plans;
- allows the State Board of Health to establish, by rule, the core public health services that each county and district public health agency must provide and the minimum quality standards for public health services. The board is authorized to review all county and district public health plans and to establish, by rule, a formula for allocating moneys to county or district public health agencies; and
- requires county and district boards of health to select a public health director and to contract with a physician if the director is not a physician.

Solid Waste and Wastewater Regulation

House Bill 08-1414 requires the Solid and Hazardous Waste Commission to promulgate rules regarding the disposal of production waste at oil and gas production waste disposal facilities. The rules must contain:

- mandatory set-backs of waste disposal facilities of one-half mile from all residences, educational facilities, day care centers, hospitals, nursing homes, jails, hotels, motels, other occupied structures, or outside activity areas such as parks and playing fields as designated in the rules;
- mandatory fabricated liners and monitoring requirements as necessary to prevent the migration of production waste to ground water;
- waste analysis and reporting requirements;
- fencing and netting requirements to prevent the public and wildlife from accessing waste disposal facilities; and
- requirements for contingency plans and financial requirements for closure and reclamation costs for waste disposal facilities.

A production waste facility must comply with the rules within 24 months after they are promulgated unless the facility can demonstrate to the Department of Public Health and Environment why it cannot comply with the rules within that time period. In this case, the department can extend the deadline for compliance to 36 months. Facilities that were established prior to the passage of the bill are not required to comply with rules regarding the one-half mile setback.

Environmental covenants are created by the owner of property in need of environmental remediation, with agreement by the state. Environmental covenants ensure that land use restrictions imposed against contaminated land can be enforced against current and future owners of the land.

Senate Bill 08-037 creates a notice of environmental use restriction which is an action by the Department of Public Health and Environment that is binding on both current and subsequent owners of affected land following an environmental remediation project. The department may unilaterally issue a restrictive notice when an environmental covenant is required, but the owner of the property fails to create one.

In addition, the bill eliminates the limitations on annual fees for both hazardous waste facilities and generators of such waste and continues indefinitely programs for recycling plastics and other products, waste tire recycling and registration, and mitigation of hazards from solid waste.

A certified operator is a person who has been certified by the Water and Wastewater Facilities Operators Certification Board to operate a water or wastewater treatment facility. **House Bill 08-1073** allows the Water and Wastewater Facility Operators Certification Board to exempt certain facilities from the requirement to operate under the supervision of a certified operator. When considering an exemption, the board may consider: discharges of limited duration; the sensitivity of the receiving waters; the level of toxic pollutants in the discharge; and other relevant information.

House Bill 08-1099 makes the following changes to the Water Quality Control Act:

- authorizes the Water Quality Control Commission, rather than the State Board of Health, to hear appeals of penalties imposed for certain violations;
- requires the Department of Public Health and Environment to begin review of applications for permits within 45 days of receipt of the application, and requires the department to notify applicants that an application is incomplete within 90 days of receipt of the application. Currently, there is no deadline by which the department must begin review of an application and the department is required to notify applicants if an applicant is incomplete within 45 days of receipt of the application; and
- extends from 15 to 30 days the time frame for providing notice for and for holding public meetings on permit applications and extends from 30 to 45 days the time frame for making determinations on permit applications requiring a public meeting.

In addition, the bill shifts responsibility for adopting rules pertaining to waste tire haulers from the State Board of Health to the Solid and Hazardous Waste Commission.

Air Quality

House Bill 08-1230 would have established the Colorado Mobile Machinery Emissions Limitations Act of 2008. The act would have required diesel powered mobile machinery to comply with specific federal air emission standards. Mobile machinery includes vehicles not designed primarily for the transportation of persons or cargo, and include wheeled vehicles commonly used in construction, maintenance and repair of roadways, drilling of wells, and digging of ditches. Beginning January 1, 2009, owners of mobile machinery were required to pay a \$25 registration fee. After January 1, 2010, owners of mobile machinery would have been required to demonstrate that the machinery complied with air emissions standards prior to registering the machinery. If a person could not demonstrate that the equipment complied with the air emission standards, he or she would have been required to pay an additional \$25 fee for each nameplate rated horse power of the mobile

machinery. Farmers or ranchers with an annual income of less than \$250,000 were not required to comply with the emissions provisions of the bill. The Department of Public Health and Environment was to expend the moneys collected from the fees to provide grants to assist in the purchase or retrofitting of mobile machinery to comply with the emissions standards. The bill was postponed indefinitely.

In previous sessions, the General Assembly passed legislation concerning indoor air quality due to smoking. Specifically, House Bill 06-1175 established the Colorado Clean Indoor Air Act which prohibited smoking in most indoor places, with some exceptions including casinos and cigar-tobacco bars. House Bill 07-1269 repealed the casino exemption effective January 1, 2008. **Senate Bill 08-225** would have specified that a cigar-tobacco bar could not have gaming equipment. The bill was lost in the House.

Disease Control and Treatment

The General Assembly considered two bills relating to the control of tuberculosis. **Senate Bill 08-044** allows each Colorado college and university to work together to create a tuberculosis screening process that is as uniform as possible. The Department of Public Health and Environment may participate in any meetings. The screening process may include:

- a tuberculosis risk questionnaire;
- a tuberculosis education policy;
- a clinical review process for each completed questionnaire; and
- follow-up testing procedures for at-risk students.

Participants involved in creating a screening process must report any resulting legislative recommendations to the General Assembly by January 1, 2009. Colleges and universities offering only online programs are not required to participate in the creation of the screening process.

House Bill 08-1199 updates existing statutes regarding investigation and control of tuberculosis in the state. Specifically, the bill provides authority for both the Department of Public Health and Environment and local health agencies to investigate and examine all reported cases of tuberculosis, screen at-risk populations, offer treatment, and issue isolation orders.

Adult stems cells have been used to research potentially life saving treatments for a number of diseases. One source of adult stem cells is the blood cells within an infant's umbilical cord. Facilities across the country have developed programs to preserve umbilical cord blood for future medical research. **House Bill 08-1372** requires the Department of Health Care Policy and Financing to set standards and procedures for hospitals who volunteer to collect umbilical cord donations. The bill also creates the Adult Stem Cells Cure Fund. The fund is to consist of gifts, grants, and donations, as well as money raised from a new voluntary income tax checkoff. The department may use up to 5 percent of the money in the fund for administrative purposes, 25 percent for umbilical cord blood collection awareness, and the remainder to fund activities associated with umbilical cord blood collection for umbilical cord blood banks.

Current law requires positive tests for certain diseases and conditions to be reported to the Department of Public Health and Environment. **Senate Bill 08-109** would have required a health care provider to either post a notice stating that Colorado law requires the reporting or to inform the patient that the report would be made prior to obtaining any specimen or sample from the patient to determine wether the patient had a reportable condition. The bill was postponed indefinitely.

Health Care Facility Licensing and Regulation

Senate Bill 08-182 would have required a hospital to notify the Department of Public Health and Environment at least 90 days prior to the hospital's closing or discontinuation of an essential health care service. The department was to determine, through rule, what services constitute essential health care services. If a hospital was intending to discontinue an essential health care service, the department was to determine if the service was necessary to preserving access and health status in the hospital's service area and require the hospital to submit a plan for assuring continued access to the discontinued health service. The bill was postponed indefinitely.

Senate Bill 08-153 establishes licensing requirements for home health agencies providing both skilled and personal care services. The bill contains the following timelines for compliance with the bill's provisions:

- beginning June 1, 2009, home care agencies that provide skilled services must apply for licensure with the Department of Public Health and Environment, and home care placement agencies must notify the department in writing if they provide referrals for skilled home health services;
- also beginning June 1, 2009, home care agencies must require a criminal history record check of new employees, and home care placement agencies must require the check for persons seeking placement;
- beginning January 1, 2010, home care agencies that provide in-home personal care must apply for licensure with the department and it becomes unlawful for home care agencies that provide skilled services to operate without a license; and
- beginning January 1, 2011, it becomes unlawful for home care agencies that provide in-home personal care to operate without a license.

The State Board of Health must promulgate rules concerning standards for licensure and licensing fees. Persons operating home care agencies that do not comply with licensing requirements are guilty of a misdemeanor and may be subject to a civil penalties.

Effective January 1, 2009, **House Bill 08-1038** repeals the license fees for assisted living residences set in statute, and requires the State Board of Health to establish a fee schedule that will cover the direct and indirect costs of administration and enforcement of the Assisted Living Residence Program. Prior to setting the fee schedule, the board must hold public stakeholder meetings.

Other

Cigarette ignition standards. Senate Bill 08-026 establishes the Reduced Cigarette Ignition Propensity Standards and Firefighter Protection Act. Beginning July 31, 2009, the act requires cigarette manufacturers to test and certify that their cigarettes that are sold in Colorado meet certain fire safety standards. The standards are based upon similar requirements enacted in New York in 2004 which require that all cigarettes sold in the state to be low ignition strength, making them less likely to cause fire if left unattended. The most common technology used by manufacturers to comply with the standard is wrapping cigarettes with two or three bands of special paper that slow down a burning cigarette to the point that it self-extinguishes if left unattended.

Leadville Mine Drainage Tunnel. A recent collapse in the Leadville Mine Drainage Tunnel has caused a backup of the water in the mine workings, possibly resulting in a blow-out of the tunnel. If a blow-out were to occur, it may result in the release of contaminated water into the Arkansas river. Water flowing from the collapsed Canterbury Tunnel has been identified as a source of water that may be contributing to the mine pool that drains into the Leadville Mine Drainage Tunnel, and to the build up of pressure within the tunnel. House Bill 08-1396 allows money in the Hazardous Substance Response Fund to be used by the Department of Public Health and Environment to conduct a study to determine whether water from the Canterbury Tunnel is contributing to an increase in the mine pool that feeds into the Leadville Mine Drainage Tunnel. The study must include a comparison of the short- and long-term impacts of drilling a vertical well as opposed to a horizontal well. If the study identifies conclusive evidence of a connection between the Canterbury Tunnel and the Leadville Mine Drainage Tunnel, the remainder of the money appropriated for the study is to be used to implement a solution to the problem. The department must report its findings and recommendations to the General Assembly by November 1, 2008.